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File No. Home Guards II
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Legal **DEPARTMENT**

B **BRANCH**

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Subject:—

Rules and Notifications under the Bombay Home Guards Act, 1947

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Office of the R.L.A.

Rule 8 of the Bombay Home Guards Rules, 1946, prescribes the functions assigned to the members of the Home Guards. The proposal is to add the following clause to the said rule 8, namely :-

"(d) building up morale, promoting communal harmony and instilling habits of self reliance and discipline in the members of the public."

2. The question raised for the consideration of the R.L.A. is whether the proposed amendment is in order.

3. Section 8(c) of the Bombay Home Guards Act, 1947 (Bom. III of 1947) empowers the Provincial Government to make rules regulating the functions of members of the Home Guards. Clause (c) of section 8 contains a general provision enabling Government to make rules generally for giving effect to the provisions of the Act. But the rules, as laid down in section 8 itself, must be consistent with the Act. Under the preamble the object of the Act is to provide a volunteer organisation for use in emergencies and for other purposes. Under section 8(1) the members are required to discharge such functions in relation to the protection of persons, the security of property and the public safety as may be assigned to them under the Act or the Rules. Under section 4 the Police Heads have been authorised to call out the members for training or to discharge their functions. The Act does not specifically state the functions of the members. But under the scheme of the Act it is certain that the functions are restricted to the three purposes, namely, (i) the protection of persons, (ii) the security of property and (iii) the x public safety. In the form of Pledge

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given in Form B appended to the Rules a provision is found for a declaration by the member that he will serve Government without communal bias and that he will, with the best of his powers, cause peace to be kept and preserved. However, it appears doubtful whether a provision could be made in the rules as suggested as the functions specified in the proposed clause (d) are not directly related to any of the three purposes stated above. The proposed amendment that thus being outside the scope of the Act is not in order.

4. It may be pointed out that under the United Provinces Home Guards Act, 1947 (U.P. Act I of 1947), the preservation of public peace has been mentioned in the preamble as one of the specific purposes of the Home Guards organisation in that Province. It appears that the Prantiya Rakshak Dal in that Province is not a statutory organisation and that the orders of the U.P. Government at p. 5 m are mere executive instructions.

Sd/- P.M. Lad.
7-4
Remembrancer of Legal Affairs.

U.R. to H.D. No.3382 dated the 8th April 1948.

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Office of the R.L.A.

The Home Department Notification at page 25 is not in order as it does not specify the areas by districts as advised in R.L.A's opinion No. 11404 dated the 29th November 1947. Secondly, under sub-section (3) of section 1 of the Bombay Home Guards Act, 1947, the Act comes into force at once in the area of Greater Bombay and the area comprising the limits of the Municipal borough and the cantonment of Ahmedbad. The said areas, therefore, should not be included in the notification to be issued under sub-section (3). A revised draft 33 notification is sent accordingly. It is presumed that the area of the Ahmedabad district other than the area comprising limits of the Municipal borough and the Cantonment of Ahmedbad will form one unit for constituting Home Guards under section 2(1) of the Act and that each of the remaining districts will form a separate unit. There are some villages of the Bombay Suburban District which do not form part of Greater Bombay. It is for consideration of the Home Department in which district they should be included for the purposes of constituting Home Guards for them as presumably there will not be a separate Home Guards for these villages. If they are to be included in Thana district for this purpose then this will have to be made clear in the notification by including an item as under

"Thana district and the following villages of Bombay Suburban District, namely:-.

(1) . . . . . .

etc. "

Sd/-

Remembrancer of Legal Affairs.

U.R. to H.D., No. 4251, dated the 1st May 1948.

V.M.D./28-5
4c.

No.

Home Department,

Bombay Castle, April 1948.

NOTIFICATION.

Bombay Home Guards Act, 1947.

In exercise of the powers conferred by sub-section (3) of section 1 of the Bombay Home Guards Act, 1947 (Bom . III of 1947) and in supersession of the Government Notifications in the Home Department, No. 898/5, dated the 1st August 1947, 2nd September 1947 and 20th September 1947 respectively, the Government of Bombay is pleased to direct that the said Act shall come into force in the following areas :-

The area of the Ahmedabad District other than the area comprising limits of the Municipal borough and the Cantonment of Ahmedabad in which the Act is in force under sub-section (3) of section 1 of the Act.

Here specify all districts one below the other

for which the Home Guards is to be constituted under section 2(1)

By order of the Governor of Bombay,

Secretary to the Government of Bombay,
Home Department.

V.M.D./28-5
4c.

Office of the R.L.A.

A requisite draft notification is sent herewith.

It is presumed that the two provisos to sub-rule (2) and sub-rules (3) to (8) of rule 2 are not to be disturbed and that the power of relaxation of age limits is to be exercised by the Commandant.

Sd/- P.M.Lad
18-5
Remembrancer of Legal Affairs.

U.R. to H.D; No. 4786 , dated the 19th May 1948.

V.M.D./20-5-48.

NOTIFICATION.
Home Department,
Bombay Castle, May 1948.

Bombay Home Guards Act. 1947.

No. .- In exercise of the powers conferred by section 8 of the Bombay Home Guards Act, 1947 (Bom. III of 1947), the Government of Bombay is pleased to amend the Bombay Home Gurards Rules, 1946 , as follows namely :-

In rule 2 of the said rules --

(1) to sub-rule (1), the following proviso shall be added, namely :-

"Provided that the age limits prescribed above may be relaxed by the Commandant in suitable cases.

(2) in sub-rule (2), for the words, figure and letters " studied up to the 6th Standard English or passed the vernacular final examination " the words "passed at least the primary fourth standard examination shall be substituted.

By order of the Governor of Bombay,

Secretary to Government.

V.M.D./28-5-4c.

Legal Department.

In place of the H.D. draft at page 21 ante, a revised draft notification is sent herewith.

2. The Home Deptt. Department draft letter dated 1st June 1948 at page 17 addressed to the Commandant, Bombay, contains a proviso that for compensation under the revised rule the damage or injury must be due to circumstances over which the Home Guard had no control. The Home Department draft at page 21 does not contain such provision. It is not known whether the omission is intentional.

Sd/- 14-7
Additional Secretary to Government.

U.R. to H.D., No. 6616 , dated the 15th July 1948.

V.M.D. /28.5
4c.

NOTIFICATION.

Home Department,
Bombay Castle, July 1948.

Bombay Home Guards Act, 1947.

No. .- In exercise of the powers conferred by section 8 of the Bombay Home Guards Act, 1947 (Bom. III of 1947), the Government of Bombay is pleased to amend the Bombay Home Guards Rules, 1946, as follows, namely :-

In the said rules, -

(1) for rule 9, the following shall be substituted, namely :-

"9. Remuneration - A duty allowance of Rs, 2 1/2 per day shall be paid to each officer or member of the Home Guards who is called out to aid the Police or when he is called upon to attend a training camp. No other remuneration of any kind shall be paid to the officer or member except under the provisions of rule .11 "

(2) in rule 10, after the words "on duty" the words "or under training " shall be inserted.

By order of the Governor of Bombay,

Secretary to Government.

V.M.D. /28-5
4c.

gal Department.

A revised draft notification is sent herewith.

Sd/- J.R.Dhurandar.
26.7
Additional Secretary to Government.

U.R. to H.D., No. 7012 , dated the 27th July 1948.

V.M.D. /28-5
ac.

NOTIFICATION

Home Department,

Bombay Castle, July 1946.

Bombay Home Guards Act, 1947.

No. .- In exercise of the powers conferred by section 5 of the Bombay Home Guards Act, 1947 (Bom. III of 1947), the Government of Bombay is pleased to amend the Bombay Home Guards -Rules, 1946 , as follows, namely :-

In the said rules, -

(1) for rule ~~8~~ 9, the following shall be substituted, namely :-

"9. Remuneration. A duty allowance of Rs. 2½ per day shall be paid to each officer or member of the Home Guards who is called out to aid the Police or when he is called upon to attend a training camp. No other remuneration of any kind shall be paid to the officer or ~~member~~ member except under the provisions of rule 11 " ;

(2) In rule 10, -

(a) after the words "on duty" the words "or under training ";; and

(b) after the words "Provincial Government" the words "provided that such damage is caused under circumstances over which the member had no control "; shall be inserted.

By order of the Governor of Bombay,

Secretary to Government.

V.M.D. /28-5
4c.